

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of the Proposed )  
Suspension of Liquid Waste Hauler )  
Registration No. 334, Issued )  
to H & H Ship Service Company )

Order No. WQ 77-30

BY THE BOARD:

Liquid Waste Hauler Registration No. 334 was issued on April 25, 1977, to H & H Ship Service Company, based upon an application filed by Mr. William J. Harris, the President of H & H Ship Service Company. On July 11, 1977, a notice of proposed suspension of Liquid Waste Hauler Registration No. 334 was sent to Mr. Harris and H & H Ship Service Company. The notice indicated as the basis for the suspension information received by the State Board concerning the disposal of wastes in Concord, California, on March 31, 1976, from a vehicle registered to H & H Ship Service Company, <sup>1/</sup> contrary to the requirements contained in Registration No. 334, <sup>2/</sup> Water Code Section 14041, and Sections 2430 and 2431 of Title 23, California Administrative Code. By letter of July 24, 1977, H & H Ship Service Company denied the allegations contained

1. The subject vehicle had been identified by license number by H & H as one to be used in its hauling business, and a liquid waste hauler vehicle registration had been issued to H & H Ship Service Company along with Liquid Waste Hauler Registration No. 334.
2. The Liquid Waste Hauler Registration number for H & H Ship Service Company was No. 334 for both calendar year 1976 and calendar year 1977. The Company has held a liquid waste hauler registration during consecutive years from 1973 to the present. The location in Concord, California, which was the site of the March 31, 1976, disposal, did not constitute an approved site for disposal in accordance with any liquid waste hauler registration issued to the Company.

in the Notice of Proposed Suspension, described above, and requested a hearing pursuant to Section 2405.2 of Title 23, California Administrative Code. On December 1, 1977, in Sacramento, California, a public hearing was held to receive evidence relative to the proposed suspension of Liquid Waste Hauler Registration No. 334.

At the hearing on December 1, 1977, in accordance with the issues contained in the Notice of Hearing, dated November 17, 1977, evidence was presented by members of the State Board staff, by witnesses called by the State Board staff, and by Mr. William J. Harris, representing H & H Ship Service Company (hereinafter, the "Company"). The following discussion and findings are based on review of the hearing record in this matter.

#### DISCUSSION AND FINDINGS

1. Alleged violation of Registration No. 334, Section H, containing approved liquid waste disposal locations; Water Code Sections 14021, 14022, and 14041; and State Board Regulations, Sections 2430 and 2431 of Title 23, California Administrative Code.

The principal statutory requirements applicable to the hauling of liquid waste in California are found in Division 7.5 of the Water Code, commencing with Section 14000. Division 7.5 provides, among other things, that persons hauling waste as a business or incidental to a business must hold an unrevoked registration issued by the State Board,<sup>3/</sup> and that such registration

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3. Water Code Section 14020(a) provides, in pertinent part, as follows: "It is unlawful for any person to carry on, or engage in, the business of hauling liquid waste, or the hauling of liquid waste as a part of, or incidental to, any business, unless he holds an unrevoked registration issued by the state board...."

shall be subject to such terms and conditions as the State Board finds are necessary to protect the quality of the waters of the State.<sup>4/</sup> Water Code Section 14041 further provides:

"The hauler of liquid waste shall dispose of liquid waste in accordance with the regulations adopted by the regional board and on a site approved by the regional board and shall dispose of only such type of liquid waste as was designated for the particular site."

Pertinent State Board regulations in Title 23 of the California Administrative Code, which were adopted to implement and make more specific the requirements applicable to liquid waste haulers, provide similarly:

"2430. Disposal at Approved Sites. Liquid Waste shall be disposed of only as authorized by Sections 2431 or 2432 at sites approved for the particular group of waste in accordance with Subchapter 15 (commencing with Section 2500) of this chapter...."

"2431. Discharge to Drainage Systems. There shall be no discharge of liquid waste into drainage systems which transport storm waters or other surface waters into waters of the state except at locations and in conformance with waste discharge requirements prescribed by the regional water quality control board having jurisdiction."

The substance of testimony given by two Department of Health employees, Dr. David Storm and Lloyd Batham, at the hearing may be briefly summarized as follows: that on March 31, 1976, while conducting a compliance inspection, each of them observed a tank vehicle loading liquid wastes at the Company premises in San Francisco; that shortly thereafter and near the Company premises, they noticed the same truck on the highway and followed it to 1995 Market Street in Concord, California, where they saw liquid wastes flowing from it. The driver of the vehicle did not possess a liquid waste

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4. Water Code Section 14022 states: "Registration shall be subject to such terms, conditions, orders, and directions as the state board or its duly authorized representative may at any time deem necessary for the protection of the quality of the waters of the state."

hauler record form for the liquids in the vehicle. The record indicates that the wastes were flowing from the tank vehicle across a portion of 1995 Market Street to a drainage course which is tributary to Pine Creek, which in turn flows to Suisun Bay by way of Walnut Creek.

1976 Liquid Waste Hauler Registration No. 334, which approves the application identifying wastes and disposal sites for the Company, does not identify the 1995 Market Street location as an approved disposal site for wastes hauled by the Company, nor had this site been approved by the Regional Water Quality Control Board, San Francisco Bay Region (San Francisco Regional Board) for liquid waste disposal. No authorization has or had been given to the Company by the State Board to apply liquid wastes for dust control or any other purposes at this site. No waste discharge requirements had been adopted by the San Francisco Regional Board for this disposal. No evidence was presented to indicate that the source of the liquid wastes involved in the March 31, 1976, disposal was not the H & H Ship Service Company or that 1995 Market Street, Concord, was a site approved for the disposal of liquid wastes.

We find, therefore, that a disposal of liquid wastes from and by H & H Ship Service Company occurred on March 31, 1976, at 1995 Market Street, Concord, California, and that such disposal constitutes a violation of Registration No. 334, Water Code Sections 14022 and 14041, and Sections 2430 and 2431, Title 23, California Administrative Code, and each of them.

2. Actions taken by the Company to correct violations or to prevent further violations of liquid waste hauler statutory, regulatory or registration requirements.

Mr. Harris stated on behalf of the Company that, since March 31, 1976, all Company disposals of liquid wastes had been at approved disposal sites;<sup>5/</sup> that the Company's record-keeping, as required by Registration No. 334 and State Board regulations, had generally improved over this same period; that the Company's supervisory personnel had been made aware of the requirements of the liquid waste hauler program; and that Mr. Roberto Nubla had been delegated the responsibility of compliance with these various requirements. Mr. Harris indicated that the employee population at the Company varies from approximately twenty-five to one hundred-fifty persons. Mr. Harris's testimony indicated that no employee training or information program for purposes of compliance with applicable liquid waste hauler disposal and record-keeping requirements had been commenced or planned for Company employees.

An inspection of Company liquid waste hauler records, which was conducted November 22, 1977, by Dr. Fred Lercari and Arnold Looiye of the State Board staff, revealed that during the past year there have been instances of non-compliance with the record-keeping requirements of the liquid waste hauler program. Due to these deficiencies in the records it cannot be ascertained whether certain liquid waste loads were disposed in a manner which complied with the

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5. Mr. Harris also stated, however, that he had not reviewed the Company's liquid waste hauler records to determine whether disposals had been at approved disposal sites.

requirements of Registration No. 334, the Water Code and the State Board Regulations, cited herein above.

The Company has not demonstrated actions sufficient to correct or prevent violations of the requirements of Registration No. 334, the Water Code, and pertinent sections of the State Board Regulations.

3. Proposed Suspension and Non-renewal of Liquid Waste Hauler Registration for H & H Ship Service Company.

Based upon the finding above that there has been a violation of applicable requirements by the Company, it is appropriate to suspend Liquid Waste Hauler Registration No. 334, in accordance with Section 2405.1, Title 23, California Administrative Code.<sup>6/</sup> What constitutes an appropriate term of suspension must now be addressed.

Mr. Harris testified that the Company is presently aware of its obligation to comply with liquid waste hauler registration requirements, as well as disposal and record-keeping requirements of the Water Code and State Board Regulations. However, the testimony of Dr. Fred Lercari of the State Board staff indicates that there have been continuing problems during 1977 with compliance by the Company with record-keeping requirements of the liquid waste hauler program. Testimony received from Ed Simons, an employee of the Department of Fish and Game, indicates that several other violations of pollution control requirements by the Company have been noted over the past several years, and that at least two such

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6. We note that a violation which constitutes cause for suspension or revocation of a liquid waste hauler registration may also constitute cause to deny renewal of liquid waste hauler registration.

violations have resulted in criminal action against Mr. Harris. In addition, during an inspection of the Company's liquid waste hauler records, which was conducted April 16, 1976, by Mary Eggink and Arnold Inouye of the State Board staff, several liquid waste hauler record forms<sup>7/</sup> were discovered which indicated the 1995 Market Street location in Concord to be the place of disposal of liquid wastes. In the absence of any evidence to rebut or clarify the place of disposal indicated, these facts indicate to us the substantial likelihood that liquid waste disposal by the Company occurred more than once at a site not approved for such disposal by the State Board or any Regional Board.

The records and files submitted by the State Board staff as a part of the hearing record, in addition to the testimony presented at the hearing by witnesses employed by the Department of Health, the Department of Fish and Game and the San Francisco Regional Board, which are relevant to the issues of the length of suspension which is appropriate in this matter and the terms of any registration renewal, indicate a long history of apparently willful disregard of environmental protection laws by the Company. Compliance with liquid waste hauler requirements must be considered as essential cost and obligation of doing business as a liquid waste hauler or conducting any business to which liquid waste

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7. The dates, form numbers and places of disposal indicated were as follows: October 31, 1975, No. 1709, Albert's Market Street, Concord; February 19, 1976, No. 1610, Dust Control (Concord); February 23, 1976, No. 1608, Dust Control (Concord); March 16, 1976, No. 0832, Albert's, Concord. "Albert's, Concord" was located at 1995 Market Street, Concord.

hauling is incidental, and must be recognized by this Company as such. Compliance with these requirements is a condition of doing business in this State as a liquid waste hauler.

Based upon the hearing record in this matter, as discussed above, we find it necessary to suspend Liquid Waste Hauler Registration No. 334 for a period of ten calendar days and to condition any renewal of liquid waste hauler registration for this Company upon the submittal of a detailed plan, satisfactory to the State Board's Executive Director for Water Quality, for accomplishing the following: (1) informing and instructing all Company employees of requirements of the liquid waste hauler program and providing the necessary forms to employees; (2) creating and maintaining an adequate record-keeping system for liquid waste hauler record forms; (3) supervising all employees to obtain compliance with requirements; and (4) implementing the plan described within a reasonable period of time. Any plan submitted must, at a minimum, contain procedures for verifying that each driver of H & H vehicles has read and understood the requirements for disposal of liquid wastes and has received appropriate liquid waste hauler record forms to document each load of wastes hauled. Such plan must also indicate what procedures and supervisory personnel will verify that properly completed forms for each load of wastes hauled are received and maintained. Any renewal registration issued to the Company shall specify the required date of implementation of the plan for complying with liquid waste hauler requirements. Failure to implement the plan by the specified date shall constitute cause for revocation of registration.

ORDER

After review of the record and for the reasons heretofore expressed, we have reached the following conclusions.

IT IS HEREBY ORDERED:

1. That 1977 Liquid Waste Hauler Registration No. 334, H & H Ship Service Company is hereby suspended for the period of ten (10) days, which shall run starting December 22, 1977, through December 31, 1977; and

2. That no 1978 Liquid Waste Hauler Registration for this Company shall be issued unless and until the Company has submitted a plan, which is approved by the Board's Executive Director for Water Quality, as described hereinabove, for achieving compliance with liquid waste hauler requirements.

Dated: DEC 15 1977

W. W. Adams  
W. W. Adams, Member

WE CONCUR:

John E. Bryson  
John E. Bryson, Chairman

W. Don Maughan  
W. Don Maughan, Vice-Chairman